

[*McCafferty v. Centerior Energy*](#), 96-ERA-6 (ARB Dec. 16, 1997)

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U.S. Department of Labor
Administrative Review Board
200 Constitution Avenue, N.W.
Washington, D.C. 20210

ARB CASE NO. 96-144
ALJ CASE NO. 96-ERA-6
DATE: December 16, 1997

In the Matter of:

**OWEN McCafferty, DENNIS
MALONEY, SEAN KILBANE,
TERRY McLaughlin, SEAN
McCafferty, and ROBERT
PROHASKA,
COMPLAINANTS,**

v.

**CENTERIOR ENERGY¹,
RESPONDENT.**

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT**

This case arises under the Energy Reorganization Act of 1974 (ERA), as amended, 42 U.S.C. §5851 (1988 and Supp. IV 1992). The parties submitted a Stipulation on Remanded Issues to the Administrative Law Judge (ALJ) seeking approval of the stipulation

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and dismissal of the complaint. The ALJ issued a Recommended Decision and Order on November 14, 1997 approving the stipulation.

The request for approval is based on an agreement entered into by the parties, therefore, we must review it to determine whether the terms are a fair, adequate and reasonable settlement of the complaint. 29 C.F.R. §24.6. *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. U.S. Dep't of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10, Sec. Order, Mar. 23, 1989, slip op. at 1-2.

The Board requires that all parties requesting settlement approval of cases arising under the ERA provide the settlement documentation for any other alleged claims arising from the same factual circumstances forming the basis of the federal claim, or to certify that no other such settlement agreements were entered into between the parties. *Biddy v. Alyeska Pipeline Service Company*, ARB Case Nos. 96-109, 97-015, Final Order Approving Settlement and Dismissing Complaint, Dec. 3, 1996, slip op. at 3. Accordingly, the parties have certified that the agreement constitutes the entire and only settlement agreement with respect to the Complainants' claims. *See* Joint Response to Order of November 26, 1997.

We find that the agreement, as so construed, is a fair, adequate, and reasonable settlement of the complaint. Accordingly, we APPROVE the agreement and DISMISS THE COMPLAINT WITH PREJUDICE. *See* Stipulation page 1.

SO ORDERED.

DAVID A. O'BRIEN

Chair

KARL J. SANDSTROM

Member

[ENDNOTES]

¹ Centerior Energy Corporation is the holding company of Cleveland Electric Illuminating Company, Toledo Edison Company and Centerior Service Company. Cleveland Electric Illuminating Company and Centerior Service Company are licensed by the Nuclear Regulatory Commission (NRC) to operate the Davis-Besse Nuclear Power Station. The abbreviated caption refers to all these Respondents.